

schemes must always remain inexplicable. But henceforth personal reasons urged him to try to bring Burr to conviction. In the shape the case had now assumed he saw an attack, by Federalist influences, upon the power of the Executive to punish treason. Marshall's strictures upon his course bit the deeper because at heart he knew them to be largely just. He wrote to Bowdoin, United States Minister to Spain: "Hitherto we have believed our law to be that suspicion on probable grounds was sufficient cause to commit a person for trial, allowing time to collect witnesses till the trial, but the judges here have decided that conclusive evidence of guilt must be ready in the moment of arrest, or they will discharge the malefactor. If this is still insisted on, Burr will be discharged, because his crimes having "been sown from Maine through the whole line of the western States to New Orleans, we cannot bring the witnesses here under four months. The fact is that the Federalists make Burr's course their own, and exert their whole influence to shield him from punishment. And it is unfortunate that Federalism is still predominant in our judiciary department, which is consequently in opposition to the Legislative and Executive branches and is able to baffle their measures often."

In a letter to his political confidant, W. B. Giles, his animosity to Marshall mounted still higher: "That there should be anxiety and doubt in the public mind, in the present defective state of the proof, is not wonderful; and this has been sedulously encouraged by the tricks of the Judges to force trials before it is possible to collect the evidence. * * * The presiding Judge meant only to throw dust in the eyes of his audience. But all the principles of law are to be perverted which would bear on the favorite offenders who endeavor to overrun this odious Republic. * * * If there had ever been an instance in this or the preceding administration of Federal Judges so applying principles of law as to condemn a Federal or acquit a Republican offender, I should have judged them in the present case with more charity."

His feeling toward Burr is thus expressed: "Against Burr, personally, I never had one hostile sentiment. I never, indeed,